

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

JEFFORY DWAYNE HOWARD and
LESA HOPE HOWARD,

Plaintiff,

v.

DS CORP., an Indiana Corporation, d/b/a
CROSSROADS RV,

Defendant.

Case No. _____

NOTICE OF REMOVAL

Defendant DS Corp., d/b/a Crossroads RV, hereby files this Notice of Removal as provided by 28 U.S.C. §§ 1332, 1441, and 1446. The underlying action is currently pending in the Iowa District Court for Warren County, case number LACV035876. In support of removal to this Court, DS Corp. states as follows:

1. Plaintiffs filed their Petition on May 19, 2015 in the Iowa District Court for Warren County. A copy of the Petition is attached as Exhibit A. The originally-filed Petition is silent on the amount in controversy. *See* Exhibit A.

2. The United States District Court for the Southern District of Iowa is the federal judicial district embracing Warren County, Iowa.

3. Plaintiffs served DS Corp. with the Summons and Petition on or about May 22, 2015. The Summons identifies that DS Corp. must file its response to the Petition within 60 days after service of the Summons and Petition. A copy of the Summons is attached as Exhibit B.

4. On or about June 26, 2015, Plaintiffs submitted a Request for Entry of Default.¹

¹ On July 2, 2015, plaintiffs withdrew their request for default. *See* Exhibit D.

5. In support of their Request for Entry of Default, Plaintiffs submitted an Affidavit in which they identified that they are seeking damages in the amount of \$92,917.96 plus \$235 in costs. A copy of the Affidavit is attached as Exhibit C.

6. In accordance with 28 U.S.C. § 1446(b)(3), this Notice of Removal is timely filed because it is filed within 30 days of the Affidavit Supporting Entry of Default Judgment which is the first filing from which it became ascertainable that the case was removable because Plaintiffs seeking an amount in excess of \$75,000.

7. This action may be removed to this Court pursuant to 28 U.S.C. § 1441 because it is a “civil action” brought in a “State Court of which the district courts have original jurisdiction,” and because “none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action has brought.” 28 U.S.C. §§ 1441(a) and (b).

8. Diversity jurisdiction is conferred upon the district courts by 28 U.S.C. § 1332(a), which provides, in relevant part, that “the district court shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.”

9. Citizenship of a corporation is determined by 28 U.S.C. § 1332(c), which provides, in relevant part, that a “corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.”

10. Plaintiffs’ Petition states that plaintiffs are a married couple residing in Iowa.

11. At all times relevant to this Notice of Removal, DS Corp. was an Indiana corporation with its principal place of business in Indiana.

12. Accordingly, DS Corp. and Plaintiffs are citizens of different states.

13. Plaintiff's Affidavit Supporting Entry of Default Judgment indicates that Plaintiffs are seeking in excess of \$75,000 in damages. *See* Exhibit C.

14. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because (1) DS Corp. and Plaintiffs are not citizens of the same state (2) Plaintiffs seek damages in excess of \$75,000, exclusive of interest and costs.

15. Pursuant to 28 U.S.C. §1446(a), copies of all pleadings that have been filed in this action to date are attached as Exhibit D. No other process, pleadings, or orders have been served on DS Corp. in connection with this action.

16. Pursuant to 28 U.S.C. § 1446(d), DS Corp. is providing written notice of this filing to all parties to this litigation (*see* Exhibit E) and a copy of this Notice of Removal is being filed with the District Court for Warren County (*see* Exhibit E).

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ATTORNEYS FOR DEFENDANT

Filed via EDMS.